

TITLE 52

MINORS

**TITLE 52
MINORS**

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**CHAPTER 1
JUVENILE DEFINED**

Section

1-101 Definition of “juvenile”

§1-101. Definition of “juvenile.” — For the purpose of this chapter, a juvenile is defined as any person who has not attained the age of 18 years.

Source: PDC §6-1, 3/71

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CHAPTER 2 PROTECTION OF MINORS

Section

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§2-101. Declaration of policy. — It is the policy of the state of Pohnpei to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection.

Source: P.L. No. 7-131 §1; 39 TTC §451 (1980)

§2-102. Definitions. — Whenever used in this chapter, unless the specific content indicates otherwise:

(1) “Abuse” means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.

(2) “Child” means any person under 18 years of age.

(3) “Person” means any physician, dentist, including an intern, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official.

Source: P.L. No. 7-131 §2; 39 TTC §452 (1980)

§2-103. Reporting procedure. — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse shall report the matter promptly to the Chief of Police of the Division of Police and Security within the Department of Public Safety; PROVIDED, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of the state hospital or a government medical facility within the state center, such staff member shall immediately notify the Director of Health Services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official, he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the Chief of Police of the Division of Police and Security. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care, if known, the child’s age, the nature and extent of the child’s injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor.

Source: P.L. No. 7-131 §3; 39 TTC §453 (1980)

§2-104. Immunity of reporting persons from liability. — Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full immunity

with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report.

Source: P.L. No. 7-131 §4; 39 TTC §454 (1980)

§2-105. Physician-patient privilege not applicable. — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege.

Source: P.L. No. 7-131 §5; 39 TTC §455 (1980)

§2-106. Penalties. — Anyone knowingly and willfully violating this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: P.L. No. 7-131 §6; 39 TTC §456 (1980)

**CHAPTER 3
TRUANCY MATTERS
[RESERVED]**

Cross - Reference

Truancy. —

[Cross-reference – *See* Title 18, Ch. 3]

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**CHAPTER 4
JUVENILE OFFENSES
[RESERVED]**

Cross - References

Prohibition on gambling. —

[Cross-reference – *See* Title 70, Ch. 2]

Prohibition on entering premises of on-sale business. —

[Cross-reference – *See* Title 66, Ch. 2]

Prohibition on tobacco products. —

[Cross-reference – *See* Title 66, Ch. 3]

**CHAPTER 5
[RESERVED]**

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CHAPTER 6 JUVENILE OFFENDER PROCEEDINGS

Section

6-101 Adoption of flexible procedures by courts	6-105 Confinement
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§6-101. Adoption of flexible procedures by courts. — In cases involving offenders under the age of 18 years, courts shall adopt a flexible procedure based on the accepted practices of juvenile courts of the United States of America, including insofar as possible the following measures:

- (1) Report by a welfare or probation officer in advance of trial;
- (2) Detention, where necessary, apart from adult offenders;
- (3) Hearing informally in closed session;
- (4) Interrogation of parents or guardians and release in their custody if appropriate.

An offender 16 years of age or over may, however, be treated in all respects as an adult if in the opinion of the court his physical and mental maturity so justifies.

Source: TTC §495 (1966); 15 TTC §1 (1970); 15 TTC §1 (1980)

§6-102. "Delinquent child" defined. — As used in this chapter and Chapter 7, "delinquent child" includes any child:

- (1) Who violates any Pohnpei law, except that a child who violates any traffic law or regulation shall be designated as a "juvenile traffic offender" and shall not be designated as a delinquent unless it be so ordered by the court after hearing the evidence; or
- (2) Who does not subject himself to the reasonable control of his parents, teachers, guardian or custodian, by reason of being wayward or habitually disobedient; or
- (3) Who is a habitual truant from home or school; or
- (4) Who departs himself so as to injure or endanger the morals or health of himself or others.

Source: TTC §437 (1966); 15 TTC §2 (1970); 15 TTC §2 (1980)

Cross-reference: See 61 PC 1-107

§6-103. Proceedings; conduct generally; delinquency not a crime. — Proceedings against a person under 18 years of age as a delinquent child shall be conducted in accordance with this chapter, and an adjudication that a person is a delinquent child shall not constitute a criminal conviction.

Source: TTC §432 (1966); 15 TTC §3 (1970); 15 TTC §3 (1980)

Note: References to insanity and to age classifications of children appearing in TTC §432 (1966) were omitted in subsequent TTC editions and in this Code. See Public Law 3C-51 §§1 and §3, 9/22/70.

Cross-reference: 61 PC 1-105, 61 PC 1-107 and 62 PC 7-101.

§6-104. Proceedings; where brought. Proceedings against a person as a delinquent child may be brought in the Trial Division of the Pohnpei Supreme Court or in a state court having jurisdiction over the place where the delinquency or any part of it occurred, except that if the acts charged may legally constitute murder or rape of which the person is not conclusively presumed to be incapable by law, the proceedings shall be brought only in the Trial Division of the Pohnpei Supreme Court.

Source: TTC §432 (1966); 15 TTC §4 (1970); 15 TTC §4 (1980)

§6-105. Confinement. — A person adjudged to be a delinquent child may be confined in such place, under such conditions, and for such period as the court deems the best interests of the child require, not exceeding the period for which he might have been confined if he were not treated as a “juvenile offender” under this chapter and Chapter 7.

Source: TTC §432 (1966); 15 TTC §6 (1970); 15 TTC §6 (1980)

§6-106. Orders for persons encouraging, causing or contributing to delinquency. — In any juvenile delinquency proceeding, if it is found by the court that any person is encouraging, causing or contributing to acts or conditions which result in an adjudication of the delinquency of a child, the court may require such person to be brought before the court and, after hearing, may order such person to do any specific thing which falls within the duty owed by such person to the child, or refrain from doing any specific act inconsistent with that duty, and, upon the failure of such person to comply with the order of the court, he may be proceeded against for criminal or civil contempt of court.

Source: TTC §438(a) (1966); 15 TTC §5(1) (1970); 15 TTC §5(1) (1980)

Note: This Pohnpei Code section retains the revisions of 15 TTC §5(1) (1970) to the language of TTC §438(a) (1966). *See* Public Law 3C-51 §§1 and §3, 9/22/70.

§6-107. Appeals. — An adjudication in juvenile delinquency proceedings and all orders in connection with such adjudication shall be subject to appeal as in civil actions, except that no filing fees shall be required.

Source: TTC §438(b) (1966); 15 TTC §5(2) (1970); 15 TTC §5(2) (1980)

CHAPTER 7
LIABILITY OF PARENTS AND GUARDIANS FOR
ACTS OF DELINQUENT CHILD

Section

7-101 Liability of parents and guardians

§7-101. Liability of parents and guardians. — A parent or guardian having custody of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is found delinquent and placed on probation, if the court finds at the hearing that the parent or guardian having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the finding of delinquency is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than \$100, conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof found delinquent, or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent is the proximate cause of the act or acts of the child upon which such second finding of delinquency is based, or upon which such child is found to have violated the conditions of his probation, the court may declare that all or a part of the recognizance shall be applied in payment of any damages; otherwise, the proceeds therefrom, or any part remaining after the payment of damages as aforesaid, shall be paid into the Treasury.

Source: TTC §439 (1966); 15 TTC §51 (1970); 15 TTC §51 (1980)

Note: See 52 PC 6-102 and 6-105 for applicability to this section.

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